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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/043,566	01/10/2002	Boaz Maor	ARBP065	9296
21912 7590 03/18/2008 VAN PELT, YI & JAMES LLP 10050 N. FOOTHILL BLVD #200 CUPERTINO, CA 95014				
EXAMINER				
AKINTOLA, OLABODE				
ART UNIT		PAPER NUMBER		
3691				
MAIL DATE		DELIVERY MODE		
03/18/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/043,566

Applicant(s)

MAOR, BOAZ

Examiner

OLABODE AKINTOLA

Art Unit

3691

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 February 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-41 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-41 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SG/US)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-12, 18-20 and 22-41 are rejected under 35 U.S.C. 102(e) as being anticipated by Li et al (USPAP 20030004850).

Re claims 1, 3, 4, 7, 18-20, 22-31 and 32-41: Li teaches a method comprising: prior to conducting the auction round, determining a non-zero allocation amount to be allocated to each of the plurality of highest ranked bidders at a conclusion of the auction round, wherein the allocation amount associated with each of the highest ranked bidders at the conclusion of the auction round is dependent upon the rank of each of the plurality of highest ranked bidders at the conclusion of the auction round; conducting the auction round; and after the auction round has been conducted, allocating the award between two or more of the plurality of highest ranked bidders in accordance with respective ranks of the two or more bidders at conclusion of the auction round and the allocation amounts determined prior to the conducting of the auction (sections 0012 (“*buyer constraint*”), 0013, 0019 (“*business rule*”), 0129, 0132 (“*specified percentage of awards be awarded to locally based or domestic suppliers*”), 0139-0141, 0166, Figs 29, 31 (“*supplier rank*”)).

Re claims 2, 5, 6: Li teaches wherein the amount to be allocated to a bidder having a certain rank after conducting the auction is the same regardless of which bidder attains that rank (section 0019 (“*ensuring that a particular supplier is always awarded a minimum amount of business*”)).

Re claims 8-11: Li teaches determining a total volume to be awarded in the auction, wherein said determining an amount to be allocated to each bidder includes dividing the total volume to be awarded between the number of bidders to whom the award is to be allocated in the auction (section 0097).

Re claim 12: Li teaches displaying market feedback to at least one bidder while conducting the auction (section 0083).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.

4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Li.

Re claim 21: Li does not explicitly teach forward auction. However, Li teaches reverse auction. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Li to include forward auction. One would have been motivated to do so in order to incorporate the system with regular forward auction format, thereby enhancing the functionality of the system.

Claims 13-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Li in view of Lostis et al (USPAP 20020026429).

Re claims 13-17: Li teaches all the limitations except for information representing the volume allocated to each of the bidders. Lostis teaches information representing the volume allocated to each of the bidders (section 0213, fig. 17). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Li to include this feature. One would have been motivated to do so in order provide suppliers with information concerning their allocations, thereby enhancing the system.

Response to Arguments

Applicant's arguments filed 2/19/2008 have been fully considered but they are not persuasive.

Applicant argues that Li does not teach “prior to conducting the auction round,” “allocation amount to be allocated” “dependent upon the rank of each of the plurality of highest ranked bidders at the conclusion of the auction round” and after the auction round has been conducted, “allocating the award between two or more of the plurality of highest ranked bidders in accordance with respective ranks of the two or more bidders at conclusion of the auction round and the allocation amounts determined prior to the conducting of the auction”. Examiner respectfully disagrees. Specifically, Li teaches receiving buyer’s constraints which are representative of requisition prior to conducting the auction round (sections 0012 and 0013). Li further teaches establishing business rules (section 0129) such as requiring that a specific percentage of awards (allocation amount) be awarded to specific suppliers (i.e. ranking suppliers based on buyer’s preference) (section 0132, fig. 31). Examiner notes that the basis of the ranking is not defined in the claims. Bidders can be ranked based on several parameters such as bid price, quantity, buyer’s preference, bidder’s performance, timeliness etc. The claims do not specify the basis of bidders ranking. In the absence of a specific ranking parameter, Examiner broadly interprets the claims as reading on the Li reference.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Xie et al (USPN 7006987) teaches determining allocation amount to be allocated to each of a plurality of highest ranked bidders at the conclusion of an auction round (see col. 4, lines 40-61).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to OLABODE AKINTOLA whose telephone number is (571)272-3629. The examiner can normally be reached on M-F 8:30AM -5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Kalinowski can be reached on 571-272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

OA

/Hani M. Kazimi/
Primary Examiner, Art Unit 3691